

HP Docket No. 200208780-1

Fifth, MPEP §803 requires that if search and examination of two or more inventions can be made *without serious burden*, the Examiner *must* examine each on the merits, even if the claims are directed to distinct or independent inventions. MPEP §808.02 requires that “[w]here the inventions as claimed are shown to be independent or distinct ... the examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the examiner if restriction is not required. Thus the examiner must show by appropriate explanation one of the following: (A) Separate classification thereof ... (B) A separate status in the art when they are classifiable together ... (C) A different field of search”. Here, the Office merely alleges that each sub-species is unique and requires a different search. Such explanation does not constitute a showing of a serious burden as required by MPEP §808.02. It is not alleged by the Office that the different search would be in a different field of search. Applicants respectfully believe that the different features of the various Sub-species would all be searched in the same field of search. Accordingly, it would not be overly burdensome on the Examiner to search for each of Applicants’ claims of elected Species III at the same time.

For at least the foregoing reasons, Applicants respectfully traverse the restriction requirement and respectfully request the Office to examine the all the claims of Species III, including the claims directed to Sub-species 1a, 1b, 1c, 1d, 2a, 2b, 3a, or 3b, together.

REMARKS


Applicant believes that all elected claims presently on file in the subject application are in condition for immediate allowance, and such action is respectfully requested. If it is felt for any reason that direct communication with Applicant's attorney would serve to advance prosecution of this case to finality, the Examiner is invited to call the undersigned Robert C. Sismilich, Esq. at the below-listed telephone number.

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**AUTHORIZATION TO PAY AND PETITION
FOR THE ACCEPTANCE OF ANY NECESSARY FEES**

If any charges or fees must be paid in connection with the foregoing communication (including but not limited to the payment of an extension fee or issue fees), or if any overpayment is to be refunded in connection with the above-identified application, any such charges or fees, or any such overpayment, may be respectively paid out of, or into, the Deposit Account No. 08-2025 of Hewlett-Packard Company. If any such payment also requires Petition or Extension Request, please construe this authorization to pay as the necessary Petition or Request which is required to accompany the payment.

Respectfully submitted,



Robert C. Sismilich

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